

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY
ORDINANCE COMMITTEE
MINUTES OF PUBLIC MEETING**

DATE.....January 20, 2003
TIME.....4:45 P.M.
PLACE.....COUNTY OFFICE BLDG.
20 N. 3RD STREET
LAFAYETTE IN 47901

MEMBERS PRESENT

KD Benson
Mark Hermodson
Gary Schroeder
John Knochel
Steve Schreckengast

STAFF PRESENT

Sallie Fahey
James Hodson, Atty

Mark Hermodson called the meeting to order. He explained that he was the only official member of the Ordinance Committee present but that discussion could still be held because there was no official business on the agenda.

I. APPROVAL THE MINUTES

Sallie Fahey explained that since the topics of the Ordinance Committee change every other meeting, the minutes would now be distributed in the appropriate packet according to topic. She pointed out that the minutes in today's packet have already been approved.

II. AMENDING UZO REGARDING WINERIES: Sallie Fahey

Sallie Fahey presented a handout of the Federal requirements of a winery. She mentioned that Rick Black was probably familiar with all the regulations and that there were quite a few forms that went with these requirements. She stated that there was also a question about how other uses in rural areas handled large numbers of visitors and compared it to the dairy/visitors center/cheese factory that had been in the newspaper. She said that she spoke to the Newton County Building and Planning Inspector. She informed the Committee that Newton County treats a traditional dairy operation as a farm, but when the cheese factory and visitors center was added they had to rezone to I2. She explained that I2 was probably different than our I2, but was still an industrial zone. She said that originally the dairy wanted at least 100 acres, but then Newton County requested a reduction to 56 acres because they did not want it to grow without further review.

Mark Hermodson pointed out that the Newton County example was spot zoning and he did not agree with an industrial zone.

Sallie Fahey agreed that industrial was not appropriate. She mentioned that she did not know all the details of the Newton County ordinance, but in this circumstance industrial might make sense because of the cheese factory. She pointed out that the important part of this example was that a special approval process was required.

KD Benson stated that she spoke to Jo Wade, the Director of the Visitors Bureau, who said that the agricultural tourist spots are becoming more popular and the Visitors Bureau would support that.

Mark Hermodson stated that he was also in favor of having a winery in the County. He said that the issue was not whether to allow it, but how to allow it without an undue burden on the A zones. He reiterated that the agricultural tourisms spots are very popular and important to the education system.

KD Benson mentioned that INDOT was considering a special exit off of the interstate for the tourist dairy.

Sallie Fahey mentioned that there was an article that discussed that option. She also presented a handout of all the uses permitted in the A zone. She pointed out a few of the larger attracting uses such as amusement and recreation services, arenas and stadiums, boarding and training of horses and boarding and breeding of cows. She said that some of the smaller uses are construction, special trades contractor, disposal sites, correctional institutions, country club memberships, greenhouses, hotels and motels with a 20 acre minimum, kennels, membership of sports and recreation clubs, art galleries, golf courses, parks, retail nursery, lawn and garden supply stores, riding clubs and summer theaters. She stated that most of the examples she listed would have to be on large acreages so the issues of a lot of people and a lot of vehicles are taken care of and most of them are allowed by special exception. She said that a winery would probably be best in an A zone by special exception, where issues such as traffic and noise are addressed.

Mark Hermodson pointed out that conditions could also be imposed.

Sallie Fahey stated that by using the special exception process, petitioners would have to determine their hours of operation and traffic generation. She said that from the petitioners' business plan, they would have to figure out how many public and private events they are proposing.

KD Benson asked how U-pick strawberry farms would be handled.

Sallie Fahey stated that would be treated strictly as a farm and anything that is raised on the farm can be sold on the farm. She said that even though traffic would be slightly different for a U-pick farm, it would still be treated the same.

Gary Schroeder asked if the winery operation would require public utilities, such as water and sewer.

Sallie Fahey said that they probably could operate on well and septic. She mentioned that for septic, they would probably have to have it engineered through the state.

She presented a new revision of the proposal by Jay Seeger. She reviewed and explained the changes suggested by Jay Seeger and Rick Black. She pointed out that one revision included the requirement that in zones A, AW, AA, I1, I2 and I3 a winery must produce a minimum of 200 gallons of wine per year. She mentioned the other requirements including; attendance at private events would be limited to 85, public events are limited to 3 event days per month and 15 event days per calendar year, private events that exceed attendance of 85 people would be considered public events, sales and marketing promotions that do not promote an extended visit on the property would not be considered a public event. She reviewed the changes in the definition of a winery. She mentioned that there had been some discussion on the status of the roads for a winery. She explained that since most of the primary uses in A zones are dealt with by special exception, the road issues would best be handled at the special exception stage. She pointed out that in paragraph 3 of the winery definition, it states that all wineries are subject to all state and federal requirements. She suggested adding language that would state that if all state and federal permits and licenses were not obtained then it would not be considered a winery,

Rick Black, 3913 Kensington Drive, Lafayette, IN, stated that it is illegal for a winery to operate without a license. He said that it was not necessary to include a lot of clauses for criminal activity.

Sallie Fahey stated that the language she suggested was to try to prevent other business from trying to fit into the definition of a winery.

Rick Black reiterated that he has been working with Jay Seeger on these revisions. He stated that they tried to come up with a definition of events that was very specific but not too limiting to prevent normal winery business activities from occurring and being confused with a public event.

He explained that the minimum wine production restriction was added as a response to the last meeting and to protect against other business trying to claim winery status by making only small amounts of wine. He stated that the main concern regarding the events was the traffic that they would generate. He explained that in order to decide on a reasonable maximum number for private events, they polled area golf courses for their daily attendance numbers. He said that the average for golf courses during their regular seasons was between 300-350 persons per day. He pointed out that an 85 person maximum would not pose an unreasonable traffic burden on an agricultural community. He pointed out that if the public events were limited only to holidays, the 15 event maximum would cover all of the holidays. He stated that even though he believed that public events would not cause an imposition on the surrounding communities, he understood the potential for an imposition and therefore suggested the maximums in the proposal. He explained that these maximums were reasonable numbers that would ensure most wineries reasonable income stream while protecting the surrounding communities from potential abuse of disruptive events.

Dr. Carl Griffin asked if a new winery would struggle to produce 200 gallons per year.

Rick Black stated that 200 gallons was a reasonable minimum and new wineries would not struggle. He explained that 200 gallons would require a several thousand-dollar investment in equipment.

Dr. Carl Griffin asked if the State had guidelines for expected traffic counts on specific types of roads.

Sallie Fahey stated that was a question that the Highway Department or a highway engineer could answer.

John Knochel stated that Tippecanoe County has traffic counts on all major roads every 2 years.

Dr. Carl Griffin asked if the type of road would be addressed during the special exception process.

Mark Hermodson stated that the roads would probably be the biggest and probably the deciding factor.

Sallie Fahey stated that from a planning perspective, there would be concern if a winery was located ½ mile down a gravel road and even more concern if there were single-family homes between the paved road and the winery.

John Knochel stated that the Highway Department has traffic maps showing the cars per day.

Sallie Fahey stated that the County keeps traffic count maps and APC keeps adjusted traffic count maps.

KD Benson asked for confirmation that private events are unlimited.

Rick Black stated that was correct and the same applied to golf courses.

KD Benson asked if a public event was a spectator or participatory event.

Sallie Fahey stated that the ways to qualify a public event were: to have more than 85 people by reservation or providing entertainment.

Rick Black stated that by nature if a person was present and enjoying wine that would be a participatory event.

Sallie Fahey stated that was correct and for that reason it needed better wording. She gave some examples of a spectator or participatory event. She mentioned that an event that promoted something other than the winery tour or tasting room would be considered a public event.

Rick Black pointed out that footnote 57 combined with the definition of a public event created 4 or 5 contingencies that define the event. He said that all contingencies have to apply for it to be considered a public event. He stated that private event required a reservation or invitation. He mentioned that a public event was something that was advertised, with entertainment and open to the general public.

Sallie Fahey stated that the entertainment clause was not intended to prevent a private tasting, by invitation with a string quartet playing on the side. She explained that the tasting would still be the main event and not the music.

Rick Black pointed out that a marketing event, which promoted an extended visit, would be a public event. He stated that a public event would be a visit for any purpose other than what the winery does on a daily basis. He reiterated the different contingencies and gave examples of what would and would not be considered a public and private event.

Greg Boesch 4500 East 700 South, Lafayette, IN asked if a wedding reception would be public or private.

Mark Hermodson stated that had been discussed quite a bit and was considered a private event.

Greg Boesch asked if it would be considered public if there were more than 85 people.

Mark Hermodson replied affirmatively.

Greg Boesch asked if a winery was in a zone other than what is listed, if the UZO would apply.

Mark Hermodson stated that this was the whole list.

Sallie Fahey stated that wineries would be permitted in GB, I1, I2, I3 and by special exception in A, AW and AA.

Mark Hermodson explained that if it were allowed by right no permits would be needed and the restrictions would be the UZO

Sallie Fahey mentioned that the numbers and definitions in the proposal were up for discussion. She presented an article on the economics of a winery. She pointed out that the article states that location is key to the success of a winery and that a winery was considered small if they produced 5,000 to 20,000 gallons of wine per year. She posed the question that 200 gallons might be too low.

Rick Black informed the Committee that he spoke to a winery architect and consultant. He stated that there are 6 wineries in Indiana that produce more than 5,000 gallons, the majority of the 28 Indiana wineries produce less than 2,000 gallons.

Sallie Fahey said that her question was if the winery was economically successful on 2,000 gallons.

Rick Black replied affirmatively and stated that they were part of the 28 existing wineries.

Sallie Fahey mentioned that they might be small enough to be allowed to rebottle wine under their own label.

Ellen Harkness, 745 Agriculture Mall Drive, West Lafayette, IN, stated that 200 gallons would not economically sustain a winery, but it is a viable amount for a start-up operation. She said that

most wineries go 7 years before making a profit. She said that there are many struggling wineries between 2,000 and 5,000 gallons.

Sallie Fahey asked if that amount was the amount made/blended or the amount sold.

Ellen Harkness stated that the State of Indiana does not allow wine to be relabeled. She said that a winery could buy bulk wine for blending but not relabel. She said that the numbers reflect sold wine.

Sallie Fahey stated that she thought that the new Statute allowed for the purchasing of wine.

Ellen Harkness said that the Statute allowed the purchasing of some bulk wine.

Sallie Fahey asked under what circumstances that would be allowed.

Rick Black stated that a winery would purchase bulk wine for either start-up or disaster purposes.

Steve Schreckengast asked if there were requirements on reporting the amount of wine produced. He asked if it was reported when it was made or when it was sold.

Rick Black stated it was reported at both stages.

Ellen Harkness stated that the records of sale are public knowledge. She said that production has to be reported on a monthly basis, depending on the size of the winery. She mentioned that the winery has to report what was bought and sold in terms of fruit, what the total gallonage is at any given time. She said that those reports were handled by both the ATC and Federal regulations. She said that she was not sure if those numbers were public.

Rick Black stated that it would be very easy to determine if there were 200 gallons produced.

Greg Boesch stated that the requirement should not be too high because 200 gallons is 1,000 bottles and it might be difficult for a new winery to sell that many bottles.

Sallie Fahey agreed and said she just wanted to make sure that it was not too small of an operation.

Greg Boesch stated that with 1,000 bottles, the Board of Health requirements would have to be met.

Rick Black informed the Committee that the proposal and the requirements within, are not designed for his specific application or plans. He pointed out that having a cluster of wineries in order to create a wine trail is better for business. He mentioned that the proposal was designed to encourage all forms of wineries and not just his own.

Mark Hermodson asked if there was a maximum attendance requirement. He pointed out that the proposal states that cars parked along public roads would be considered non-compliance, but it should not be allowed to get to that point.

Sallie Fahey stated that there should not be a parking requirement for the largest possible event, but if there were it would take care of the maximum problem. She pointed out that if the parking requirement for a mall were designed for holiday traffic, there would be a ton of empty space the rest of the year.

Mark Hermodson asked if there should be a maximum attendance limit on a public event.

Sallie Fahey pointed out that it would not matter on a golf course because of all the extra acreage.

Steve Schreckengast suggested a clause requiring onsite parking must be provided for public events.

Mark Hermodson stated that was already in the proposal.

Rick Black said that there is a limit to the amount of control that can be imposed without affecting the owner's ability to run his own business. He commented that no reasonable businessman would want 400 people on a 3-acre site.

Mark Hermodson pointed out that all the ordinances were written for unreasonable circumstances.

Rick Black pointed out that since this would be allowed in agricultural and industrial areas by special exception only, then the maximum attendance for public events should be handled at that level.

Sallie Fahey stated that the parking requirement would apply to all zones, not just the agriculture and industrial zones.

Dr. Carl Griffin asked for clarification on parking group 56c.

Sallie Fahey explained that in the UZO all the parking requirements are numbered. She said that currently there are 55 different parking requirements for all different types of land use and there was not one that matched this use, so they are proposing a new one in numerical order. She mentioned that the "c" referred to the bicycle parking requirements.

Gary Schroeder asked for further clarification on the new parking requirement.

Sallie Fahey said that the new requirement would be 1 parking space per employee, 1 per business vehicle and 1 space for every 200 square feet of gross floor area.

Steve Schreckengast asked if the 200 square feet applied to the total or to only the tasting area.

Rick Black explained that it applied to the customer sales area only and production area was excluded.

Gary Schroeder asked if sanitary sewer would be required for manufacturing.

Rick Black stated that he has spoken to the Health Department and the Water Department and a septic system would be acceptable so long as it passed the absorption test.

Gary Schroeder asked if manufacturing would produce a lot of waste that would need to be treated.

Rick Black replied negatively. He said that the waste would be water or residue from the grapes.

Sallie Fahey pointed out that there would be a difference if the grapes were crushed on site.

Rick Black commented that the biggest issue regarding utilities is the huge amount of water that is used for cleaning purposes. He said that 100 gallons of water are used for every gallon of wine.

Mark Hermodson asked for additional comments before the next step.

Sallie Fahey stated that the second paragraph needed some refinement of the wording. She said that for the next meeting, they could work with Jay Seeger on the wording and have it ready in amendment form for final review.

Mark Hermodson commented that the general direction was not likely to change much.

Sallie Fahey stated that if everyone were in agreement on the numbers and definitions, they would go ahead with the amendment form.

Rick Black asked what the process would be from this point on.

Mark Hermodson explained that when the staff and Jay Seeger put it into amendment form, a copy would be sent out, then the next Ordinance meeting it would be reviewed one last time and hopefully send on to the full Commission. He said that it would then go to the next available Plan Commission meeting.

Sallie Fahey stated that the next available Ordinance Committee meeting would be the third Tuesday in February, which would then have to go to the April APC meeting.

Rick Black said that Jay Seeger has said that the filing deadline would not pertain to an ordinance amendment.

Sallie Fahey stated that the deadline has applied to ordinances for the last 30 years. She said that it could be changed, but in the past the staff has always met the same deadline that they require petitioners to meet. She said that she would double check with Jay Seeger when he returned from vacation next week.

Rick Black asked if the agenda for the February 3 Ordinance Committee was full.

Sallie Fahey replied affirmatively, with the Wallace Triangle neighborhood.

Rick Black asked if he would have to make a presentation at the next meeting.

Mark Hermodson stated that when the amendment version is sent out, if anyone has any issues with that version, they would be able to address them at the next meeting.

III. CITIZEN COMMENTS


IV. ADJOURNMENT

Respectfully submitted,



Michelle D'Andrea
Recording Secretary

Reviewed by,



Sallie Dell Fahey
Executive Director